

CONTRACT NO. 16-DSR-12681

BETWEEN

**UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
Desert Southwest Region**

AND

ARIZONA POWER AUTHORITY

FOR

FIRM TRANSMISSION SERVICE ARRANGEMENTS

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1. **PREAMBLE:** This Contract is made this 23rd day of September, 2016, pursuant to the Acts of Congress approved June 17, 1902 (32 Stat. 388); December 21, 1928 (45 Stat. 1057); August 4, 1939 (53 Stat. 1187); July 19, 1940 (54 Stat. 774); May 28, 1954 (68 Stat. 143); August 31, 1964 (78 Stat. 756); September 30, 1968 (82 Stat. 885); June 24, 1974 (88 Stat. 266); August 4, 1977 (91 Stat. 565); August 17, 1984 (98 Stat. 1333); December 20, 2011 (125 Stat. 777, 43 U.S.C. 619a); and Acts amendatory or supplementary to the foregoing Acts, between the UNITED STATES OF AMERICA, acting by and through the Administrator, Western Area Power Administration (WAPA), Department of Energy, represented by the officer executing this Contract or a duly appointed successor; and Arizona Power Authority (Contractor), a body corporate and politic organized and existing under the laws of the State of Arizona, its successors and assigns; each sometimes individually called Party, and sometimes collectively called Parties.
2. **EXPLANATORY RECITALS:**
 - 2.1 WAPA, pursuant to law, holds title to, operates, maintains, and makes replacements to the Pacific Northwest-Pacific Southwest Intertie Project (Pacific

Intertie) transmission system and the Parker-Davis Project (P-DP) transmission system facilities and appurtenances.

- 2.2 Pursuant to the Boulder Canyon Project Act of December 21, 1928 (45 Stat. 1057), the Boulder Canyon Project Adjustment Act of July 19, 1940 (54 Stat. 774), and the Hoover Power Plant Act of August 17, 1984 (98 Stat. 1333), the Hoover Power Allocation Act of 2011 (125 Stat. 777, 43 U.S.C. 619a), Contractor is receiving contingent capacity and associated energy, and excess energy from the Boulder Canyon Project (BCP).
- 2.3 On February 12, 1987, WAPA and Contractor entered into Contract No. DE-MS65-85WP39502, (Contract 39502), for delivery of energy from the Boulder Canyon Project through September 30, 2017, unless otherwise modified. Upon the effective date of this Contract, Contract 39502 shall terminate in accordance with Section 4 herein.
- 2.4 WAPA and Contractor are preparing to enter into a new BCP Contract No. 16-DSR-12626 to receive an allocation of energy from the BCP for electric service through September 30, 2067.
- 2.5 The Contractor desires WAPA to continue to provide firm transmission service for a portion of the Contractor's BCP power entitlement and such other energy as may become available to the Contractor over the P-DP transmission system of WAPA from Contractor's point(s) of receipt to the Contractor's point(s) of delivery on the P-DP transmission system as specified herein.
- 2.6 The Contractor desires WAPA to continue to provide firm transmission service for a portion of the Contractor's BCP power entitlement and such other energy as may become available to the Contractor over the Pacific Intertie transmission

system of WAPA from Contractor's point(s) of receipt to the Contractor's point(s) of delivery on the Pacific Intertie transmission system as specified herein.

2.7 The Contractor desires and WAPA is willing to provide firm transmission service over the P-DP and the Pacific Intertie Transmission Systems using the transmission path(s) set forth in Exhibit A.

3. **AGREEMENT:** The Parties agree to the terms and conditions set forth in this Contract.

4. **TERMINATION OF PRIOR AGREEMENTS:**

4.1 The following contract, as supplemented or amended, shall terminate upon the effective date of this Contract and its initial exhibit(s):

<u>CONTRACT NO.</u>	<u>DATE</u>
DE-MS65-85WP39502	February 12, 1987

4.2 The applicable provisions of the contract that is terminated pursuant to this Contract shall continue in effect after termination to the extent necessary to provide for final billings, billing adjustments, and the determination and enforcement of liability and indemnification obligations arising from acts or events that occurred prior to the effective date of termination of the contract.

5. **TERM OF CONTRACT:** This Contract shall become effective on October 1, 2017, and subject to prior termination as otherwise provided herein, shall remain in effect through September 30, 2067, or until the Parties mutually agree in writing to terminate or supersede this Contract on an earlier date. The Contractor shall also have the right to terminate by providing no less than ninety (90) days' prior written notice to WAPA if terminating effective prior to October 1, 2017, or one (1) year's prior written notice to WAPA if terminating effective after October 1, 2017, together with sufficient documentation of the Contractor's alternative transmission arrangements to enable the

delivery of the Contractor's BCP power allocation.

6. **FIRM TRANSMISSION SERVICE TO BE PROVIDED BY WAPA:**

- 6.1 WAPA has determined that capacity on the P-DP and Pacific Intertie Transmission Systems is available to serve the Contractor's load requirements. WAPA shall use those transmission systems to deliver capacity and associated energy for the Contractor using the transmission path(s) designated in Exhibit A, adjusted for losses as provided in Section 8 hereof. Firm transmission service shall be provided for delivery of power and associated energy to the Contractor at the point(s) of delivery in amounts identified in Exhibit A. The firm transmission service capacity provided for in this Contract is intended to serve existing Contractor loads, and is not intended to provide increased use or capacity for the benefit of any third party.
- 6.2 For the purposes described in subsection 6.1, the Contractor may request redirects of transmission capacity with said requests considered and granted in accordance with WAPA's business practices, as published on WAPA's Open Access Same-time Information System (OASIS) site, and as may be amended from time to time, in accordance with WAPA's business practices.
- 6.3 The Contractor shall inform WAPA in writing when an increase or decrease in P-DP or Pacific Intertie transmission capacity is needed by the Contractor to serve load requirements. In accordance with Attachment K of WAPA's Open Access Transmission Tariff, WAPA shall reserve such capacity if available. Exhibit A will be revised to incorporate increased or decreased transmission capacity reservations, as necessary.
- 6.4 WAPA shall at all times have the right to use any portion of the transmission

system capacity reserved for the Contractor, but not being used by the Contractor, to schedule capacity and deliver associated energy. WAPA reserves the right to grant the use of any such transmission system capacity to others on an interruptible basis during the periods when the Contractor does not schedule use of such transmission system capacity.

6.5 Except as otherwise specifically provided in this Contract, the Parties do not intend to create rights in, or to grant remedies to, any third party as a beneficiary of this Contract or any duty, covenant, obligation or undertaking established herein.

6.6 No assignment of the transmission capacity reserved for the Contractor under subsection 6.1 hereof may be made without the approval of WAPA.

7. **CHARGES FOR FIRM TRANSMISSION SERVICE:**

7.1 **P-DP:** The Contractor shall pay WAPA monthly for the amount of transmission system capacity, expressed in megawatts, contracted for hereunder and reserved for the Contractor on the P-DP transmission path(s) set forth in Section 3 of Exhibit A, in accordance with rates, charges, and conditions which shall be calculated in accordance with the applicable P-DP rate schedule(s), as amended or supplemented, attached hereto and made a part hereof. The rates or rate methodology used to calculate the charges for service may be modified pursuant to applicable Federal laws, regulations and policies; **Provided,** That the charge in the twelfth month following the effective date of this Contract and in the twelfth month of each successive year shall be adjusted, if necessary, so that the total amount paid by the Contractor during the year, exclusive of any additional charges due to unauthorized use of transmission capacity, will equal the annual

charge per megawatt-year set forth in WAPA's current rate schedules and charges for P-DP, multiplied by the amount of P-DP transmission capacity reserved for the Contractor as set forth in Exhibit A.

7.2 Pacific Intertie: The Contractor shall pay WAPA monthly for the amount of transmission system capacity, expressed in megawatts, contracted for hereunder and reserved for the Contractor on the Pacific Intertie transmission path(s), as set forth in Section 3 of Exhibit A, in accordance with rates, charges, and conditions set forth in WAPA's current rate schedules and charges for the Pacific Intertie, as amended or supplemented, attached hereto and made a part hereof; Provided, That the charge in the twelfth month following the effective date of this Contract and in the twelfth month each successive year shall be adjusted, if necessary, so that the total amount paid by the Contractor during the year, exclusive of any additional charges due to unauthorized use of transmission capacity, will equal the annual charge per megawatt-year set forth in WAPA's current rate schedules and charges for the Pacific Intertie, multiplied by the amounts of Pacific Intertie transmission capacity reserved for the Contractor as set forth in Exhibit A.

7.3 Unauthorized Use of Capacity:

7.3.1 The Contractor is not entitled to transmission system capacity in amounts greater than the maximum rates of capacity reservations as set forth in Exhibit A. The Contractor shall be billed a charge for any unauthorized use of transmission system capacity for each billing period in which WAPA determines there is a use of transmission capacity greater than maximum rate of delivery set forth in Exhibit A.

7.3.2 For transmission capacity reservations set forth in Exhibit A which are not

in whole megawatts, the Contractor shall have the right to schedule the transmission capacity up to the next whole megawatt value and unauthorized use will be determined on the total number of megawatt-hours scheduled in a month. The maximum megawatt-hours allowed in a month shall equal the transmission capacity reservation set forth in Exhibit A in megawatts times the number of hours in a month. Megawatt-hours scheduled by the Contractor in excess of the maximum allowed will be assessed charges for unauthorized use.

7.3.3 Unauthorized use of transmission capacity shall be billed in accordance with the rate schedule in place at the time of the incident.

7.3.4 Billing the Contractor or accepting payment for any unauthorized overrun of transmission system capacity shall not constitute approval, authorization, or acquiescence by WAPA to such unauthorized overrun of transmission system capacity.

7.3.5 Overruns shall not establish any continuing right thereto. The Contractor shall cease any overruns when requested by WAPA.

7.4 Superseding Rate or Charge: The rate set forth in the applicable rate schedule or any superseding rate or charge may be modified in accordance with Article 11 of the General Power Contract Provisions.

8. **TRANSMISSION SYSTEM LOSSES:**

8.1 P-DP: As of the initial date of this Contract, the transmission loss factor on the P-DP is deemed to be three percent (3%) of the deliveries of energy by WAPA at the P-DP transmission path(s) point(s) of delivery, as specified in Exhibit A.

8.2 Pacific Intertie: As of the initial date of this Contract, the transmission loss factor

on the Pacific Intertie is deemed to be three percent (3%) of the deliveries of energy by WAPA at the Pacific Intertie transmission path(s) point(s) of delivery, as specified in Exhibit A.

8.3 Revised Transmission Loss Factor: Losses set forth in subsection 8.1 and 8.2 shall be reviewed periodically by WAPA. If the review of losses indicates the need for a revision in the transmission loss factors, WAPA shall determine the appropriate transmission loss factor and shall provide notice thereof to the Contractor at least thirty (30) days in advance of the effective date of said revision. Supporting data will be provided upon written request of the Contractor.

8.4 P-DP and Pacific Intertie Losses: Transmission system losses shall be settled financially or returned in energy as determined by WAPA. If losses are settled financially, settlement shall be in accordance with WAPA's business practice for transmission losses. If losses are returned in energy, WAPA reserves the right to establish procedures that will provide for the return of losses.

9. **REACTIVE SUPPLY AND VOLTAGE CONTROL SERVICE (REACTIVE SERVICE)**: Reactive Service maintains the voltage level on the transmission system and must be purchased from the Transmission Provider if the Contractor cannot self-provide. Equipment used to provide voltage support could be static var support and generating units. WAPA's rate schedule for Reactive Service is applicable to the transmission capacity reserved in this Contract.

10. **SCHEDULING TRANSMISSION CAPACITY AND DELIVERIES OF ASSOCIATED ENERGY**: Transmission capacity and deliveries of associated energy hereunder shall be scheduled in advance, emergencies excepted, and accounted for on the basis of such advance schedules in accordance with WAPA's business practices for

scheduling and applicable industry scheduling practices.

11. **CONTROL AND POSSESSION OF SYSTEMS**: Except as noted in the exhibits herein, each Party shall remain in exclusive control and possession of its system, and this Contract shall not be construed to grant either Party any rights of ownership, control, or possession of the other Party's system.
12. **DISPUTE RESOLUTION**: If a dispute arises between or among the Parties under this Contract, the authorized representatives shall meet in an attempt to resolve the dispute. If the Parties are unable to resolve the dispute through discussion or mediation, any Party may bring the dispute to a Federal court of competent jurisdiction.
13. **SEVERABILITY**: In the event that any term, covenant, or condition of this Contract, or the application of such term, covenant, or condition, shall be held invalid as to any person or circumstance by any court having jurisdiction, all other terms, covenants, or conditions of this Contract and their application shall not be affected thereby, but shall remain in force and effect unless a court holds that the provisions are not severable from all other provisions of this Contract.
14. **AMENDMENTS AND MODIFICATIONS**: This Contract and the exhibits attached hereto may not be amended or modified except by subsequent mutual written contract amendment or modification duly executed by the authorized representatives of the Parties.
15. **EXHIBITS MADE PART OF CONTRACT**: Inasmuch as the schedule of transmission service commitments may change during the term of this Contract, they will be specified in Exhibit A as agreed upon by the Parties in writing. The initial Exhibit A is attached hereto and made a part hereof and shall be in full force and effect until superseded by subsequent exhibits. All exhibits shall terminate upon expiration of this

Contract.

16. **GENERAL POWER CONTRACT PROVISIONS:** The General Power Contract Provisions (GPCP), effective September 1, 2007, are attached hereto, and are hereby made a part of this Contract the same as if they had been expressly set forth herein; Provided, Provisions 7, 8, 9, 12, and 15 through 28 shall not be applicable hereto; and Provided, That in Provision 3, the term “capacity” shall mean “transmission capacity”; and Provided, That if the provisions in the GPCP are in conflict with this Contract, the terms of this Contract shall control.
17. **SUCCESSORS AND ASSIGNS:** This Contract shall inure to the benefit of and shall be binding upon the respective successors and assigns of the Parties to this Contract; Provided, however, that this Contract, or any interest therein, may be assigned or transferred by any Party only with the written consent of the other Parties, which consent shall not be unreasonably withheld.
18. **GOVERNING LAW:** This Contract shall be interpreted, governed by, and construed under applicable Federal law. In the absence of applicable Federal law, the laws of the State of Arizona shall govern.

IN WITNESS WHEREOF, the Parties have caused this Contract No. 16-DSR-12681

to be executed on the date first written above.

WESTERN AREA POWER ADMINISTRATION

By Jack D. Murray
Jack D. Murray
Title Vice President of Power Marketing
for Desert Southwest Region

Address Desert Southwest Region
P.O. Box 6457
Phoenix, AZ 85005-6457

(SEAL)

ARIZONA POWER AUTHORITY

By J. E. A. All
Title Chairman

Attest:

By Heather Gordon Address 1810 West Adams Street
Title Executive Secretary Phoenix, AZ 85007-2697

SCHEDULE OF FIRM TRANSMISSION SERVICE COMMITMENTS

1. This Exhibit A, to be effective under and as a part of Contract No. 16-DSR-12681 (Contract), shall become effective upon the effective date of the Contract, and shall remain in effect until superseded by another Exhibit A; provided, that this Exhibit A, or any superseding Exhibit A, shall be terminated by the expiration of the Contract.
2. This Contract identifies the firm transmission service over the Parker-Davis Project or Pacific Intertie Transmission Systems to meet the Contractor's load requirements, as stated in Section 3 herein.

3. **CONTRACTOR TRANSMISSION SYSTEM CAPACITY RESERVATIONS:**

Under the terms of the Contract, but subject to the conditions included herein, the Contractor shall have the right to schedule energy over the Pacific Intertie or Parker-Davis Project Transmission Systems as follows:

3.1 Parker-Davis Project Capacity Requirements for 10/01/17-09/30/67:

<u>Transmission Path</u>	<u>Capacity (MW)</u>	<u>Reservation Period</u>
Mead 230-kV to Marana Tap 115-kV	.710	10/01/17-09/30/67
Mead 230-kV to Pinnacle Peak/Rogers 230-kV	.100	10/01/17-09/30/67

4. This Exhibit A to Contract No. 16-DSR-12681 may be modified in accordance with Section 15 of the Contract.